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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,006	03/01/2002	Birgir Magnusson	1030.41308X00	1131
20457	7590	03/25/2004	EXAMINER	
ANTONELLI, TERRY, STOUT & KRAUS, LLP 1300 NORTH SEVENTEENTH STREET SUITE 1800 ARLINGTON, VA 22209-9889			ARNOLD III, TROY G	
			ART UNIT	PAPER NUMBER
			3728	6

DATE MAILED: 03/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/085,006

Applicant(s)

MAGNUSSON, BIRGIR

Examiner

Troy Arnold

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☒ Claim(s) 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The “for an article...”, “for disposing...”, and “for holding...” phrases in claim 1 are functional and recite intended use only, and as such are given no patentable weight. The phrase “the first article” in the last line has no antecedent basis in the claim. Claims 2 and 3 have similar problems. There is no antecedent basis for the first or second articles or the fixed position. First and second articles are not positively recited or claimed in claim 1. Because the first and second articles are not positively recited and claimed, claim 5 is given no patentable weight.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Hartman.

Regarding claim 1, Hartman teaches a packaging including a plastic member (the whole

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piece) with a protruding part (all of the smaller part adjacent the hinge 28), a perforation 20 in the plastic member, and a foldable part (all of the smaller part adjacent the hinge 28) of the plastic member. Regarding claim 2, the foldable part includes a protruding part 48. Hartman teaches the limitations of claim 3, inasmuch as they are understood. Regarding claim 4, the second protruding part 48 is located in the protruding part (all of the smaller part adjacent the hinge 28). Hartman teaches the limitations of claim 5, inasmuch as they are understood.

Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Campbell et al. Regarding claim 6, Campbell teaches a method of holding a second article in a position relative to a first article, comprising placing a first article (a shoe) in a protruded part of the packaging, and said second article is placed in a position relative to said first article, and holding the second article in a fixed position relative to the first article, by a foldable part of the packaging 90, parts of the second article being visible when in the fixed position relative to the first article. Campbell clearly teaches all the limitations of claim 6 as amended. Regarding claim 7, Campbell teaches a method for packaging an article including: placing a first article (a shoe) in a protruded part of a package, locating a second article (a second shoe) in position relative said first article, enabling said second article to be visible when located relative the first article, folding a foldable part 30 of the packaging to hold the second article in a fixed position relative to the first article.

Allowable Subject Matter

Claim 8 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claim 8 is indicated as being allowable based on the fact that claim 7 is interpreted as positively reciting and claiming first and second articles disposed in the package.

Response to Arguments

Applicant's arguments filed 22 December 2003 have been fully considered but they are not persuasive. Regarding the remarks on page 6 and the top of page 7, Hartman has been shown above to teach each and every distinct structural limitation in claim 1. As noted in the 112-2 rejection, the intended use phrases "for holding..." which do not positively claim the articles held, are given no patentable weight. This applies similarly to the rejection of claims 6 and 7 by the Campbell reference. Applicant does not clearly point out the distinct structural limitations NOT taught by these two references.

Claims 4 and 5 are rejected finally in this action.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Troy Arnold whose telephone number is 703-305-0621. The examiner can normally be reached on Tuesday-Thursday, 9:30-6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on 703-308-2672. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Troy Arnold
Examiner
Art Unit 3728

TGA
3/9/03



Mickey Yu
Supervisory Patent Examiner
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